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Committee on Economic, Social and Cultural Rights

Fifty-second session

Summary record of the 4th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 29 April 2014, at 3 p.m.

Chairperson: Mr. Kedzia

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The meeting was called to order at 3.05 p.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Sixth periodic report of Ukraine (continued) (E/C.12/UKR/6; E/C.12/UKR/Q/6 and Add.1; HRI/CORE/1/63/Rev.1)

1. *At the invitation of the Chairperson, the delegation of Ukraine took places at the Committee table.*

2. **Mr. Mushchynin** (Ukraine) said that, in order to ensure the right to decent work, the Government had approved a programme and adopted a plan of action to promote employment for the period up to 2017. A law on employment that had entered into force at the beginning of 2013 promoted job creation, self-employment and entrepreneurship and included measures to promote the employment of vulnerable groups and to attract young specialists to work in rural areas. Implementation of those measures was ensured through the use of resources from social insurance funds. Subsidies and other incentives were provided to employers such as small and medium-sized enterprises that created and maintained new posts for at least two years for unemployed people and others who had difficulty entering the labour market, such as young people and new mothers returning to the workforce. In 2013 some 9,600 persons had found employment thanks to such programmes, including about 5,200 employed by small and medium-sized enterprises active in priority areas of the economy. One of the main tasks of the State Employment Service was to find work for members of vulnerable or marginalized groups which were not competitive on the labour market, for example by offering training programmes and psychological counselling.

3. In practical terms, there was no dedicated mechanism in place to enforce the quota whereby 4 per cent of posts should be reserved for persons living with disabilities, and the Cabinet of Ministers had therefore empowered the Labour Inspectorate and the Social Protection Fund for Persons Living with Disabilities to verify compliance. In 2012 some 80,000 places of employment had been inspected, about 3,600 of which had been issued with fines for failure to meet the quota. The fines were credited to a fund, which by the beginning of 2014 had financed the creation of 370 jobs for persons living with disabilities. It had originally been planned to establish about 620 such posts.

4. Turning to the question of how to reduce the size of the informal economy, he said that the new Employment Act that had entered into force at the beginning of 2013 included a series of incentives to encourage employers to create new jobs in the formal economy and to bring existing informal jobs into line with the legal norms, with a special emphasis on the employment of members of vulnerable groups. The Government considered that, in the light of its limited capabilities, its role should be one of facilitating the development of business activities in the official economy, for example by reducing administrative and legal barriers to business, by simplifying procedures for entrepreneurial activities and by encouraging investment, transparency and financial discipline.

5. The bill on discrimination had not yet been finalized and adopted, and amendments to other laws addressing discrimination were also still under discussion. International experts from the Council of Europe were assisting in the preparation of such legislation, particularly in relation to the definition of terms and the establishment of penalties for persons convicted of acts of discrimination. The bill on discrimination was expected to be adopted by Parliament at its forthcoming session.

6. **Mr. Khobzey** (Ukraine) said that the plans to reform the medical insurance system called for a transfer to a mandatory national health insurance scheme once the necessary measures were in place to provide a stable source of funding and the social and economic basis required for such a scheme to function properly. Some of the characteristics would include the contracting out of medical services with public financing and more independence for medical establishments. Pilot programmes had been launched in four regions of the country, with a simplified system of public funding for medical establishments providing primary and emergency care. The implementation of a medical insurance scheme, which had to cover the entire population, could not be carried out until the State had the necessary financial basis. Unfortunately, the Government did not currently have sufficient resources for the full implementation of such a system. However, a bill was currently being drawn up on universal mandatory State health insurance. It would be considered in due course.

7. **Ms. Popova** (Ukraine) said that the European Committee of Social Rights of the Council of Europe too had enquired about sexual harassment at work when it had examined the report of Ukraine on implementation of the European Social Charter. In 2013 Ukraine had submitted its sixth report to that body, focusing on labour rights. The Ministry of Labour and Social Policy had asked the Office of the Parliament Commissioner for Human Rights (Ombudsman) to provide information on the number of cases of sexual harassment reported at places of employment, and in October 2013 the Commissioner had replied that no such cases had been registered.

8. **Mr. Klymenko** (Ukraine) said that the Government was actively analysing the report submitted by Mr. Šimonović, Assistant Secretary-General for Human Rights, in April 2014, in particular its recommendations. It would also attentively study the forthcoming report of the human rights monitoring mission in Ukraine. The Government was doing everything it could to facilitate that mission. The report by Mr. Šimonović not only mentioned Parliament's attempts to repeal the language law, but also the fact that the a. ng President of Ukraine had taken steps to ensure that the law would remain in force, even though many European experts were of the opinion that it needed to be amended. Long before the visit of Mr. Šimonović, Parliament had established a special commission to draw up a new bill on language policy to replace the old law. The commission had requested opinions and input for improvements on the new draft from international experts, including the Venice Commission of the Council of Europe, the Organization for Security and Co-operation in Europe and the Council of Europe, and also from representatives of all ethnic minorities.

9. His delegation was unaware of a refusal by minority groups to take part in the process and would appreciate clarification from the Committee regarding the source of such information. The report submitted by the Assistant Secretary-General in April 2014 stated that there was no evidence of systemic or widespread violations of the rights of minority groups, and the summary of the report of the United Nations Special Rapporteur on minority issues, Ms. Rita Izsák, who had recently visited Ukraine, had noted that Ukrainian society was characterized by ethnic and interfaith harmony and a legislative and policy environment conducive to the protection of minority rights. The members of nearly 20 ethnic minorities and the Ukrainians that she had met had overwhelmingly testified that the State respected the rights of minorities, which ran counter to the assertions that there was ethnic discord in the country.

10. The delegation was unaware of any prohibition of celebrations scheduled for 9 May. It was possible that the reports of such a prohibition referred to the cancellation of a military parade, owing to financial constraints.

11. **Mr. Mushchynin** (Ukraine) said, the latest figures indicated that there were some 2,767,000 persons registered as living with disabilities in Ukraine, or about 6 per cent of the

population, of whom 296,000 were classified in disability group I, 1,045,000 in group II and 1,261,000 in group III. In addition, the number of children living with disabilities was about 165,000. The minimum pension in Ukraine was Hrv 949.

12. **Ms. Shin** noting that the proportion of elected representatives who were female was currently under 8 per cent, asked how the 30 per cent quota for gender equality in government would work. Would the quota established by the recently adopted law guarantee that 30 per cent of the members of parliament would be female following the next election? What efforts were being made to fight gender stereotypes?

13. **Mr. Abashidze** said that the European Union and the Council of Europe had both recognized that there were shortcomings in the anti-discrimination law; a bill had been drawn up to amend the law, but the procedure for adoption of the bill had evidently been suspended. The delegation should report on the situation of the bill, specifying how it would define discrimination and whether it corresponded with the terms used in article 2, paragraph 2, of the Covenant. As part of the universal periodic review mechanism, representatives of numerous countries had asked whether a comprehensive law had been adopted to combat discrimination so as to address rising concerns about an increase in incidents of racial and ethnic discrimination.

14. The current legislation on languages had been challenged in Parliament, and a bill was being drafted to replace the existing law. The United Nations Special Rapporteur on minority issues had specifically said that minorities should be involved in the drafting of the new language law. The delegation had said that the bill had already been drafted and would now be submitted to the Venice Commission of the Council of Europe and other international bodies, as well as to representatives of ethnic minorities. However, the latter should not be presented with a finished product, but should be involved directly in the shaping of the law. The delegation should inform the Committee which representative organizations were taking part, and in what way.

15. **Ms. Bras Gomes** asked whether there were plans to review the mandate of the Office of the Parliament Commissioner for Human Rights or to increase funding for it.

16. **The Chairperson** noting that the head of delegation had indicated in his introductory statement that the plan of action for social services for the period 2013–2016 included the contracting out of such services to civil society organizations, asked what form such contracting took. Was the State transferring functions to such organizations and, if so, how were responsibilities delimited? Regarding cooperation with international financial institutions such as the International Monetary Fund (IMF), the Committee was particularly concerned about the conditions imposed by such bodies when providing assistance. His predecessor as Chairperson of the Committee had sent a letter to the heads of all States parties expressing concern about the realization of economic, social and cultural rights in the context of austerity regimes and during times of economic and financial crisis.

17. **Mr. Mushchynin** (Ukraine) said that 44 of the 448 members of the Ukrainian Parliament were women. In provincial legislatures, 12 per cent of the members were female; in district councils, 23 per cent; and, in municipal councils, 28 per cent. Some 26 per cent of small enterprises, 15 per cent of medium-sized companies and 2 per cent of large firms were headed by women. Ensuring an effective and timely response to complaints of gender discrimination was a cornerstone of the Government's gender policy. An expert committee on gender discrimination had been established and had met twice in 2013, dealing with 18 cases. The new anti-discrimination bill was being finalized and was currently before a parliamentary committee. He was unfortunately unaware of the most important issues under discussion, but he reassured the Committee that the bill would be submitted at the next session of Parliament.

18. The social services were currently being reformed so as to introduce competition for the provision of services and to modernize the extensive current infrastructure. The relevant laws had been amended in 2012 so as to allow local authorities to designate institutions to meet needs for social services, as it was now considered that the provision of such services was more effective when performed at the local level, often by bodies other than government institutions, working under contract with State funding. A series of measures had been adopted to simplify procedures for citizens receiving social services at the local level. At the central level, the Government established standards and regulations to ensure the quality of such services. In 2013, some 80,000 private entities had begun operating under such contracts, and 733 local social service centres were currently in operation, serving about 1.6 million persons, 6 per cent more than in 2012. There were 324 residential institutions for elderly persons and disabled people, accommodating some 52,000 persons, and other establishments provided shelter for about 20,000 homeless people and former prisoners after their release.

19. The conditions put forward by the IMF included a reduction of the deficit of the Pension Fund and in gas subsidies, as well as other conditions to improve the economic situation in Ukraine. For years, utility rates had remained stable, as the Government had provided subsidies, but it had recently been decided that such an approach was ineffective, as the rates were low for everyone, even affluent families. The new approach called for an increase in gas and heating fees, combined with the creation of a housing subsidy system to provide assistance for those families most in need. Such assistance was currently provided to ensure that families did not spend more than 10 or 15 per cent of their overall income on utility fees. During the heating season, about 7 per cent of the population benefited from the programme, but since the poverty rate was around 20 per cent the IMF had recommended that benefits should be expanded. The Government had thus recently begun compensating needy families that did not qualify for the housing benefit. The IMF had also proposed changes in the 2014 budget and amendments to legislation to bring them into line with the new approach to State support and social services.

20. **The Chairperson** invited the delegation to address the questions raised on domestic violence.

21. **Mr. Mushchynin** (Ukraine) said that State policy for preventing domestic violence was concordant with the Domestic Violence Prevention Act, which included provision for the protection of victims. Pursuant to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) a working group had been established to develop proposals for legislative improvements and facilitate implementation of the Council of Europe Action Plan for Ukraine 2011–2014 and the National "Stop Violence" Campaign. Initiatives under consideration included an annual, national awareness-raising campaign extending over two weeks and involving State agencies, NGOs and international organizations, supported by activities at the regional level. There were over 20 support centres providing shelter and assistance to around 1,000 victims of domestic violence.

22. Employers were not generally permitted to hire minors under 18 years old. By way of exception to that rule, with the consent of a parent or guardian 14- and 15-year olds might be engaged to perform light work provided that their schooling was not disrupted and their health was not damaged. Proposals to incorporate in Ukrainian legislation a specific definition of the types of light work that should be permitted were currently under consideration. Students in upper secondary education or vocational training schools were permitted to work reduced hours or a shortened working week during the academic year and were paid in proportion to hours worked or on the basis of productivity. All organizations that employed workers under 18 years of age were required to maintain a log

of personal details, including date of birth. Heavy, hazardous and underground work were expressly prohibited for all minors.

23. Compliance with the International Labour Organization (ILO) Worst Forms of Child Labour Convention, 1999 (No. 182) was monitored by the Ministry of Social Policy, the State Labour Inspectorate and the children's services divisions of the Kyiv and Sevastopol municipal authorities. In 2013, the regional offices of the Labour Inspectorate had conducted almost 1,000 compliance checks and had identified violations of child labour law in around half of them. Disciplinary proceedings had been ordered in over 200 of those cases.

24. Poverty reduction remained a Government priority, especially since none of the past initiatives had yielded significant change. Although a few nascent positive trends were apparent, nationwide, across all sociodemographic groups, around a quarter of the population still lived below the poverty line. Poverty levels were highest among families with three or more children and/or unemployed parents, and significantly lower among persons of pensionable age and in urban areas. The higher poverty rates found in rural areas were attributable to various factors, including lack of economic growth and development and obstacles to labour market integration.

25. The social assistance programmes in place to support low-income families included targeted support for children with disabilities and families in which absent parents failed to pay alimony. Allowances for single-parent families and families with young children had been increased in 2014. Nationwide, millions of families were benefiting from social assistance and the aim was to guarantee them an income equivalent to the minimum wage. However, the extensive programme of social and financial benefits had not had a proportionate impact on poverty levels. Review and reform of the welfare system were therefore envisaged.

26. As provided under the national action plan for the protection and integration of the Roma minority, the Government aimed to achieve significant improvements in the housing conditions of the Roma and thus to ensure compliance with article 47 of the Constitution, which stipulated that all citizens should have the right to build, purchase or rent housing and that housing should be provided free of charge or at an affordable rent to those in need. No complaints of Roma being deprived of housing or excluded from social housing programmes had been received in 2013. In areas with sizeable Roma populations, State land was being made available for the construction of new homes. The Government was also implementing a plan to improve access to identity documentation for the Roma which, once brought to fruition, should further facilitate their enjoyment of the right to land and housing.

27. **Mr. Khobzey** (Ukraine) said that access to health care was a complex issue even for the most stable and developed of nations. Over the past three years the Government of Ukraine had been working to improve access to primary health care and preventive medicine, especially at the community level, and around 80 per cent of the new health centres planned under regional modernization programmes were already operational. To improve the availability and quality of health facilities in rural areas in particular, the authorities were introducing bus routes to guarantee access and incentives such as subsidized housing, free transportation and ongoing training to attract health professionals.

28. Maternal and child health had been a priority issue in the reforms. Perinatal care was provided in specialized centres and the recent improvements had paved the way for a significant increase in natural births and a parallel decline in obstetric complications and maternal morbidity. Access to neonatal care also continued to improve and the incorporation of best practices and new technologies had helped to stabilize infant mortality, with a clear decline in under-5 deaths. With support from the United Nations

Children's Fund and in consultation with general practioners, the health authorities would continue to review and enhance maternal and child health strategies.

29. Recent years had also seen important advances in preventive care. At present around 90 per cent of children under 1 year old were inoculated against tuberculosis and close to 95 per cent received anti-polio vaccines. The State budget for vaccination programmes had been increased and there had been no epidemics.

30. In a meeting with Ukrainian Government officials in 2013, the Executive Director of UNAIDS had praised the national AIDS programme, indicating that the country's response to the epidemic could serve as a model for other Eastern European countries. The anti-AIDS programme had been acclaimed as one of the best in the region and the first statistical indication that the situation was stabilizing had recently been noted. The number of new HIV diagnoses recorded in 2012 had been lower than in 2011, with new infections among injecting drug users and rates of mother-to-child transmission both declining. Unfortunately, budget constraints continued to impede access to antiretroviral drugs, with less than half of all persons requiring HIV treatment benefiting.

31. Pursuant to article 49 of the Constitution of Ukraine, medical assistance was to be provided free of charge in State health institutions in Ukraine. Article 95, on the other hand, linked State expenditure on social welfare to the need for a balanced budget. It was clear that no medical services were in reality free; funding had to be found from somewhere, whether from national or local authority budgets, donor institutions or patients. For that reason, and given the cost of modern medical technologies, guaranteeing access to secondary and tertiary care for persons in certain parts of the country was a challenge. Furthermore, accessibility was not just an issue of finance; for example, structural reforms to reduce inpatient care were needed.

32. As an advance towards free, universal health care, a new law regulating emergency medical care had been adopted in early 2013 which, once implemented, should significantly increase the probability of appropriate and timely medical intervention for all citizens.

33. **Mr. Sadi** asked whether the preceding observations amounted to an admission of divergent law and practice in relation to article 49 of the Constitution. Was primary medical care free of charge in practice and, if so, were dental services included? Information about the criteria used to determine the poverty threshold in Ukraine would also be useful, as would clarification regarding the delegation's suggestion that the IMF had shown "compassion" regarding the housing problems in Ukraine. Noting that IMF recommendations frequently ran counter to the Covenant and the rights it established, he asked whether IMF conditions were generally accepted without challenge.

34. **Mr. Dasgupta**, noting that free health services had been available in Ukraine in the 1980s, sought an explanation as to the present Government's inability to continue to provide free care. Did that inability indicate that the economy was weaker than it had been in the 1980s? If free, universal health care was no longer an option, affordable medical insurance should be made available to all. However, the Government appeared to be failing in both areas. Lastly, with regard to the high prices behind the low level of antiretroviral coverage, he asked whether the Government had considered using lower-cost generic formulations, a strategy that had been adopted with success in South Africa.

The meeting was suspended at 4.45 p.m. and resumed at 4.55 p.m.

35. **Mr. Mushchynin** (Ukraine) said that the Government was devising a number of measures to stabilize the cost of medicine and that it was hoped a decision would be taken by the end of the week.

36. **Mr. Khobzey** (Ukraine) said that the Government was also considering lowering import duties on pharmaceuticals. While the increase in prices had placed a severe strain on

the Government's ability to provide health care, it was not in breach of article 49 of the Constitution. The objective was to increase the proportion of patients using primary health-care services to 80 per cent, which was a much cheaper and accessible option. Nevertheless, there were 30 State-run schemes to assist individuals with diseases requiring costly treatment, such as cardiovascular disease, cancer, diabetes and haemophilia.

37. **Mr. Mushchynin** (Ukraine) said that, under the Constitution, social security benefits were intended to ensure that individuals and families could fulfil their basic needs. There were two methods for calculating the proportion of the population living below the poverty line, but both yielded comparable rates of between 22 and 24 per cent. The Government had taken steps to ensure that the economic crisis did not curtail the enjoyment of economic, social and cultural rights, despite the restrictions imposed by the IMF. The measures included a quarterly review to determine whether the economic climate was conducive to unfreezing the minimum wage and pension, allowances for single mothers, and heating subsidies. It was hoped that, the Government would be in a position to raise the income of some 1 million people as of October 2014.

38. The State Committee on Ethnic and Religious Affairs was composed of representatives of a number of national minorities, including Hungarians, Romanians, Russians and Crimean Tatars, and would ensure that the bill amending language legislation was in full compliance with international law. Furthermore, many schools across the country offered instruction in one or more languages other than Ukrainian.

39. Regarding the right to education, the National Education Strategy had been approved by presidential decree in June 2013, with a focus on reforming the system and implementing an array of educational models. According to figures provided by the United Nations Educational, Scientific and Cultural Organization, 99 per cent of children of the requisite age group were enrolled in basic education. Roma children attended mainstream schools and many received tuition grants, free transportation and hot meals. Children of refugees also had equal access to education at the preschool, primary and secondary levels. In addition, several ministries had undertaken a joint study on the provision of social assistance to vulnerable children.

40. Regarding Crimean Tatars, mechanisms were in place for representatives of that group to meet with local and regional authorities to discuss their needs and situation. On 25 March 2014, a decree had been adopted which granted them the right, as members of an indigenous people and national minority, to remain Ukrainian citizens.

41. **Mr. Sadi**, in view of the recent events in Crimea and its annexation by the Russian Federation, asked what measures the Government of Ukraine could take to ensure that the cultural and linguistic rights of the Crimean Tatars were upheld.

42. **Mr. Mushchynin** (Ukraine) replied that the current situation in Crimea was highly complex and that it was unclear how the various legal provisions protecting minority rights could be implemented there. Ukraine was counting on the international community to help monitor human rights in that region.

43. The Government valued its relations with the United Nations system and looked forward to receiving the Committee's concluding observations. It remained committed to designing and implementing social policy that took account of the country's ethnic and confessional diversity and would focus particularly on expanding social security benefits and medical care, reforming labour laws and promoting national languages and cultures.

44. **Mr. Abdel-Moneim** (Country Rapporteur), after pointing out that an economic downturn was not an excuse for neglecting human rights, said that Ukraine had great potential and should continue its efforts to address corruption and discrimination and be mindful of its obligations when negotiating with international financial institutions. He

thanked the delegation for its attitude towards the interactive dialogue, which had provided food for thought on how the Committee might deal in future with various aspects related to the fulfilment of economic, social and cultural rights.

45. **The Chairperson** expressed the Committee's appreciation for the State party's commitment to the dialogue and its provision of comprehensive replies in the light of the current situation, which he hoped would be resolved in accordance with international law and human rights.

The meeting rose at 5.50 p.m.